IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 954 OF 2005

Vithal Bapu Kharat ...Petitioner

Versus

Sahadev Ramchandra Devalekar
and Others ...Respondents

.....

Mr. V.S. Paradkar, counsel for Petitioner

.....

CORAM: B. H. MARLAPALLE, J.

DATED: 1ST APRIL, 2005

P. C.:-

1. Heard Mr. Paradkar, the learned counsel for the petitioner.

2. In R.C.S. No. 36 of 1977 an application at Exh.82 came to be filed for amendment on 24.1.2005 under Order VI Rule 17 of C.P.C. and the said application has been rejected by the learned C.J.J.D. at Deogad by his order dated 9.2.2005. Hence, this petition.

3. The trial court noted that the suit was filed in the year 1977 and the recording of evidence of the plaintiff had completed and has filed his pursis at Exh.81 for closing of evidence. The amendment sought

was by way of alternative plea by the defendant and, therefore, the plaintiff would not have any chance to defend his case if the amendment was allowed. The application was thus moved belatedly and if the defendant wanted to seek amendment no one stopped him impleading before the plaintiff stepped in the witness box.

4. The reasoning given by the trial court cannot be termed as manifestly erroneous and the petition is, therefore, rejected summarily.

5. Certified copy is expedited.